



# **Wisconsin Department of Transportation Wisconsin State Patrol**



## **Motor Carrier Operations**



## **Compliance Review**

**Understanding & Improving your Knowledge  
of Federal Motor Carrier Regulations**

**Provided by the:**

**Wisconsin MCSAP Compliance Review Investigators**



## Wisconsin Department of Transportation

[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

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April 15, 2004

Dear Carrier:

The federal safety rating process has identified your company for a compliance review. This review is a result of your current safety rating and/or other circumstances that require such a review be conducted. This review will be an on-site examination of your motor carrier operations to determine whether your company meets the safety fitness standard established by the Federal Motor Carrier Safety Administration (FMCSA).

It is important to recognize that this review may have a significant impact on your ability to conduct commercial motor vehicle operations. It is also imperative that you understand that the outcome of this review may have significant financial and regulatory consequences.

This review is considered to be an enforcement action and should not be viewed as an educational or outreach activity. While it is not possible to accurately predict the amount of time it will take to complete the review, our trained staff will take all the steps necessary to limit any potential disruption to your business operations without diminishing the quality of the review. Your cooperation in providing an adequate work environment to conduct the required audit will help to expedite the review process.

We encourage you to read through the materials in this packet to obtain an overall understanding of what will be reviewed, documented, and reported in the compliance review. While this document is not intended to replace the entire Federal Motor Carrier Safety Regulations, it will provide a comprehensive summary of the areas being reviewed.

Our ultimate goal is safer highways through reduced crashes, injuries and fatalities. One way to accomplish this mission is to ensure that regulatory compliance is reviewed and evaluated when appropriate. We look forward to working with you to meet this mutual goal.

Once your review has been completed, a copy of the compliance review will be provided and the FMCSA will notify you in writing of the results and/or any additional actions that may be required.

Sincerely:

LT Charles R. Teasdale  
MCSAP Program Manager  
Wisconsin State Patrol

Bernard L. Coxhead  
MCSAP Compliance Review Supervisor  
Wisconsin State Patrol

*This brochure has been compiled by Compliance Investigators of the Wisconsin State Patrol. The intent of the information provided in this publication is to promote highway safety by ensuring you the necessary basic safety management controls for safe operation in accordance with Federal Motor Carrier Safety Administration.*

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**\*Each section has a space provided for carrier notes at the end.**

**Additional information may be obtained from:**

**Wisconsin Department of Transportation official website:**

**[www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)**

**Wisconsin State Patrol**

**Motor Carrier & Inspection Services**

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**Additional contact information:**

**Federal Motor Carrier Safety Administration**

**567 D'Onofrio Drive, Suite 101, Madison, WI 53719**

**Official Website: [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)**

**Phone: 608-829-7530**

# Federal Motor Carrier Safety Regulations

## Compliance Review

### General Applicability

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The Federal Motor Carrier Safety Regulations (FMCSA) applies to all employers, employees, and commercial motor vehicles transporting property or passengers in interstate commerce.

**Authority:** is permission to haul a commodity “For Hire”.

**Interstate Commerce Authority:** Interstate commerce is movement of persons or property from one jurisdiction to another jurisdiction, i.e. state-to-state or state to province (based on where the load originated and its destination.) Example: a load is transported from Green Bay to the Port of Milwaukee with a final destination of Miami, Florida. The driver delivers to the Port of Milwaukee and never leaves the state. This is an interstate trip. It is not where the driver travels and delivers. It is where the commodity is destined.

Interstate commerce authority (MC number) is granted by the Federal Highway Administration.

**Intrastate Commerce Authority:** Intrastate commerce is movement of persons or property from one point in Wisconsin to another point in Wisconsin. The load never leaves the state.

Intrastate authority (LC number) is granted by the Division of Motor Vehicles/Motor Vehicles Motor Carrier Service Section.

**Commercial Motor Vehicle (CMV):** Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:

- Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- Is designed or used to transport more than 8 passengers (including the driver), for compensation; or
- Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- Is used in transporting a quantity of hazardous material requiring placarding.

**Exceptions to General Applicability:** Transportation provided by Federal, State, and local governments are exempt from FMCSAs. Occasional transportation of personal property by individuals for non-commercial purposes, school bus operations, and transportation of human corpses, or sick and injured people are also exempt.

Relief from ***Parts 390-399*** of the FMCSRs may be granted during declared emergencies to any motor carrier who provides emergency assistance.

## Glossary of Terms

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**Compliance Review:** is an on-site examination of motor carrier operations. A Compliance Review is intended to provide information to evaluate the safety performance and regulatory compliance of a company's operation. Safety mechanisms subject to review are as follows: Alcohol & Drug Testing; Commercial Driver's License; Insurance; Accidents; Driver Qualification; Driver's hours-of-service; Vehicle Maintenance and Inspections; Transportation of Hazardous Materials (if applicable); and other safety & transportation records to determine a motor carrier's safety fitness.

Areas in safety performance, which may trigger a compliance review and/or higher a carrier's SEA score include:

- Reportable accidents
- Vehicle out-of-service rate higher than the national average
- Validated complaint

The Compliance Review Report will list the facts which were used to determine the carrier's safety fitness rating. Completion of a compliance review report will give a carrier a proposed rating of either a satisfactory, conditional, or unsatisfactory rating and may lead to prosecution in one or more of the factors.

**Motor Carrier Safety Status Measurement System (SafeStat):** is an automated, data-driven analysis system designed to incorporate current on-road safety performance information on all carriers with on-site compliance review and enforcement history information, when available, in order to measure relative motor carrier safety fitness. The primary use of SafeStat is to identify and prioritize carriers for the Federal Motor Carrier Safety Administration (FMCSA) and state safety improvement enforcement programs. SafeStat was developed at the Volpe Center for the FMCSA, and data used are managed and maintained at the federal level by the FMCSA. SafeStat scores for motor carriers are currently at a minimum twice a year working on a monthly report system. SafeStat currently uses the following five sources of data: State-reported commercial vehicle crash data; compliance reviews (CRs); closed enforcement cases; roadside inspections; and motor carrier census data.

Safestat is designed to maximize the use of available federal motor carrier safety data to measure relative safety status of motor carriers overall in the following four SEA's (Safety Evaluation Area): Accident; Driver; Vehicle and Safety Management. Carriers with the worst records are given a SafeStat score, which represent the carrier's overall safety status in relation to their peers.

**Carrier Safety Profile:** The Motor Carrier Safety Profile (CSP) contains safety-related information on an individual carrier's operation, including selected items from inspection and crash reports and the results of any reviews or enforcement actions involving the requested motor carrier. CSP's can be accessed at the following website [www.safersys.org](http://www.safersys.org), and there is a \$20.00 charge to access a profile. ProVu is a viewer which allows users to electronically analyze standard motor carrier safety profile reports at this website. CSP questions should be directed to FMCSA Information Line at 1-800-832-5660.

## ***Part 382: Alcohol and Drug Testing Requirements***

**Applicability:** Drivers required to have a commercial drivers license (CDL) are subject to controlled substance and alcohol testing rules. This requirement extends to those drivers currently covered by the rule, including interstate and intrastate truck and motor coach operations. This includes commercial motor vehicles operated by:

- For-hire and private companies
- Federal, State, local tribal governments
- Church and civic organizations
- Apiarian industries

### **Exemptions:**

- Driver exempt from commercial driver's license requirements by their issuing states
- Active duty military personnel

### **Types of Alcohol and Controlled Substance Tests:**

**\*The carrier is responsible of notifying employees of all testing required under Part 382.**

- **Pre-Employment:** No person shall allow a driver to perform a safety sensitive function until they have received the negative controlled substance test results.
- **Post Accident:** As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol and controlled substances each surviving driver: Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or Who receives a citation under State or Local law for a moving traffic violation arising from the accident if the accident involved: Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- **Random:** Companies are to randomly test drivers at a minimum annual percentage rate of 10% of the number of drivers for alcohol testing, and 50% for controlled substances testing. The random alcohol test must be performed immediately prior, during or immediately after a driver is about to or has perform a safety sensitive function as defined in 382.107. All drivers must have an equal chance of being selected. Carriers must keep their quarterly random pool selection list current and revisions are promptly made of any changes in personnel.
  - **The carrier is responsible to ensure that drivers are tested when selected during the quarterly selection period.**
- **Reasonable Suspicion:** An employer shall require a driver to submit to an alcohol and/or controlled substance test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol and/or controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. A supervisor or company official who is trained in accordance with 382.603 shall make the required observations.



- **Return to Duty:** Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibiting by subpart B of this part concerning alcohol or controlled substances, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02% or the driver shall undergo a return-to-duty controlled substances test indicating a verified negative result for controlled substance use.
  - **Follow-up:** If a Substance Abuse Professional has determined that a driver needs assistance for the misuse of alcohol, or for use of a controlled substance, an employer must ensure that the driver is subject to follow-up testing. A minimum of six tests must be conducted in the first six months, and the driver may only be subject to this test for a maximum of 60 months.

## **Retention of Records:**

### **Five Years**

- Alcohol test of 0.02 or greater
- Verified positive drug test results
- Refusals to submit to required alcohol and drug tests
- Required calibration of Evidential Breath Testing (EBT) devices
- A copy of each annual calendar year statistical summary

### **Two Years**

- Records related to the collection process and required training

### **One Year**

- Negative and canceled controlled substances test results
- Alcohol test results indicating a BAC of less than 0.02
- Semi lab statistical summaries

All required records shall be maintained in a secure location with limited access, and shall be made available for inspection by an authorized representative of the Federal Motor Carrier Safety Administration.

**Supervisor Training:** Employers must designate a person to be trained on alcohol/control substance misuse awareness.

**Driver Awareness:** Every motor carrier shall provide educational materials explaining the requirements of the regulations as well as the employer's policies regarding alcohol misuse and controlled substance abuse.

**Controlled Substance & Alcohol Policy:** Each employer shall make available to each driver a policy, which includes the following information:

- The name of the person designated to answer questions about the materials
- The category of drivers subject to this policy
- Information regarding safety-sensitive functions performed by those drivers. Clearly identifying what period of the work day the driver is required to be in compliance with this policy
- Specific information concerning driver conduct
- The circumstances in which a driver will be tested for alcohol and/or controlled substances, including post accident testing

- The procedure which will be used for the testing
- The requirements that a driver will submit to alcohol and/or control substance testing
- An explanation of what constitutes a refusal to submit an alcohol and/or control substance testing
- Consequences for drivers found to have violated the policy, including removal immediately from performing a safety-sensitive function
- Consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04
- Information on the effects of alcohol and controlled substances regarding an individual's health, work, and personal life, including signs and symptoms.

**Certificate of Receipt:** Each driver is required to sign a statement certifying receipt of the Controlled Substance/Alcohol Policy.

**Inquiries to Previous Employers:** A motor carrier, with a driver's written authorization, shall inquire about the following information on a driver from the driver's previous employers for a period of two years preceding the driver's date of application:

- Alcohol tests with a result of 0.04 alcohol concentration or greater
- Verified positive controlled substances test results; and
- Refusals to be tested

**Serious Enforcement Violations of Part 382:**

Regulation #	Description
382.115(a)	Failing to implement an alcohol and/or controlled substance testing program.
382.201	Using a driver who has an alcohol concentration of 0.04 or greater.
382.211	Using a driver who refused to submit to a required alcohol or controlled substance test required under part 382.
382.215	Using a driver known to have tested positive for a controlled substance.

\*The above violations are not all inclusive to enforcement action.

**Carrier Notes:**



## Part 383: Commercial Driver's License

### CMV and CDL Requirement Guide:

Examples:

1. A combination vehicle 26,001 or more pounds is a Class "A" CMV only if the trailer being towed has a gross vehicle weight rating, registered weight or gross weight of more than 10,000 pounds.
2. When the weight of the combination vehicle is exactly 26,000 pounds, it is not a CMV and does not require a CDL. Example: A tractor weighs 16,000 pounds and the towed unit weighs 10,000 pounds.
3. When the towing vehicle is 26,000 or less pounds and the towed unit is 10,000 or less pounds, it is not a CMV and does not require a CDL. Example: A tractor weighs 25,500 pounds and the towed unit weighs 8,000 pounds.
4. A CDL with an "N" tank vehicle endorsement is required only when the capacity of the tank is 1,000 gallons or more and the vehicle fits the description of a CMV.
5. A CDL with a "P" passenger endorsement is required when the vehicle is designed to transport or is actually transporting the driver and 15 or more passengers.

Vehicle Examples						License Requirements			
	Tractor or Single Unit Truck	Trailer	Carrier Hazmat	Is designated to transport 16 or more passengers including the driver	Is a School Bus	Is this a CMV?	Do I need a CDL?	What Class is it?	Which Endorsement
1	18,000#	12,000#	X			Yes	Yes	A	H
2	8,000#	20,000#				Yes	Yes	A	
3	26,500#					Yes	Yes	B	
4	27,000#	10,000#				Yes	Yes	B	
5	27,000#			X	X	Yes	Yes	B	P and S
6	29,000#			X		Yes	Yes	B	P
7	12,000#		X			Yes	Yes	C	H
8	25,000#			X		Yes	Yes	C	P
9	25,000#			X	X	Yes	Yes	C	P and S
10	5,000#		X			Yes	Yes	C	H
11	16,000#	10,000#				No	No	D	
12	26,000#	8,000#				No	No	D	
13	20,000#	8,000#				No	No	D	
14	10,000#				X	No	No	D	S
15	6,000#	20,000#				No	No	D	
Tank Truck									
16	26,000#					No	No	D	
17	26,010#					Yes	Yes	B	N
18	26,000#	10,000#				No	No	D	
19	26,000#	10,000#	X			Yes	Yes	C	H and N
20	20,000#	10,500#				Yes	Yes	A	N

### **Commercial Motor Vehicle Classes:**

**Class A** – Any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

**Class B** – Any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregated total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

**Class C** – Any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if the vehicle is designated to transport or is actually transporting 16 or more passengers including the driver, or the vehicle is transporting hazardous materials requiring placarding under state or federal law.

### **Serious Enforcement Violations of Part 383:**

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Regulation #	Description
383.37(a)	Allowing, requiring, permitting, or authorizing an employee who is disqualified to operate a commercial motor vehicle or whose commercial driver's license is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle.
383.37(b)	Allowing, requiring, permitting, or authorizing an employee with more than one commercial driver's license to operate a commercial motor vehicle.
383.51(a)	Allowing, requiring, permitting or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle.

\*The above violations are not all inclusive to enforcement action.

### **Carrier Notes:**

## ***Part 387: Insurance Requirements***

For hire carriers must meet the minimum required amounts. A MCS-90 must be maintained at the principal place of business. Minimum levels of insurance needed:

- Under 10,000 lbs \$300,000 combined single limit, hauling non-hazardous materials
- Over 10,000 lbs \$750,000 combined single limit, hauling non-hazardous materials
- Hauling hazardous \$1,000,000 combined single limit
- Hazardous substances over 3,500 gallons/Class A & B explosives \$5,000,000 combined single limit

### **Serious Enforcement Violations of Part 387:**

Regulation #	Description
387.7(a)	Operating a motor vehicle without having in effect the required minimum level of financial responsibility coverage.
387.31(a)	Operating a passenger-carrying vehicle without having in effect the required minimum levels of financial responsibility.

\*The above violations are not all inclusive to enforcement action.

### **Carrier Notes:**

## ***Part 390: Accident, Vehicle Identification & MCS-150***

**Accident Countermeasures:** One of the goals of the Wisconsin Compliance Review Program is to assist carriers in the development of countermeasures to reduce commercial vehicle accidents. The focus is on improved safety management, preventative maintenance and defensive driving. We also recognized the fact that many accidents result from causes beyond the reasonable control of carriers and their drivers. Such accidents are non-preventable. The investigator will discuss and investigate, are the reasons and causes that result in preventable commercial vehicle accidents.

The FMCSA has a website that provides detailed information on how carriers must handle accident reporting. It also describes some reasonable expectations that carriers can accomplish via performance based safety management tools.

[http://www.fmcsa.dot.gov/espa%C3%B1ol/english/AccCounter\\_index.htm](http://www.fmcsa.dot.gov/espa%C3%B1ol/english/AccCounter_index.htm)

**Accident Register:** For a period of one year after an accident occurs, motor carriers **are required** to maintain an accident register containing the following information:

- Date and place of accident
- Driver's name
- Number of injuries and fatalities
- Hazardous materials (other than fuel) released, if any

Motor carriers are also required to maintain copies of all accident reports required by State or other governmental entities or insurers for a period of one year after an accident occurs.

**Accident:** An occurrence involving a commercial motor vehicle operating on a public road and results in at least one of the following:

- A fatality
- Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident
- Disabling damage to one or more vehicles, requiring the vehicle (s) to be towed or otherwise transported from the scene by a tow truck or other vehicle

**Vehicle Identification:** Every commercial motor vehicle operated by a motor carrier in interstate commerce must be marked, on **BOTH** sides of the self-propelled vehicle, with the following:

- The motor carrier's name or trade name
- The motor carrier's identification number preceded by "USDOT"

**Motor Carrier Identification Report:** Each motor carrier that conducts operations in interstate commerce must file a Motor Carrier Identification Report- Form MCS-150.

1. Before it begins operations
2. Biennial Update and changes
3. Out of Business Notification

Form MCS-150 and complete instructions is available from the FMCSA's website at <http://www.fmcsa.dot> (key word "MCS-150") or by calling 1-800-832-5660.

All carriers that meet the definition of interstate commerce authority as defined on page 1 (including occasional trips) must file application form OP-1 or OP-2 for a MC number (operating authority) along with the MCS-150 form.

Authorized for-hire motor carriers can file their MC applications online, but will not receive their MC number instantly. They will be notified of their MC number (operating authority) by mail once the operating authority has been granted. The amount of time this takes can vary greatly, as part of the process depends on the carrier's insurance coverage being properly filed with FMCSA and a properly filed BOC3 form (designation of Process Agent).

Note: Carriers with LC intrastate authority are commonly being prosecuted for crossing state lines because of their failure to obtain MC-interstate operating authority. Remember the need to change from LC authority to MC authority starts immediately when you go from Wisconsin into another state.

#### **Serious Enforcement Violations of Part 390:**

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Regulation #	Description
390.35	Making or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records.

\*The above violations are not all inclusive to enforcement action.

#### **Carrier Notes:**

## ***Part 391: Drivers Qualifications***

Motor carriers must assure that all drivers of commercial motor vehicles meet the minimum qualifications specified in ***Part 391*** and possess a valid medical certificate.

**Driver Qualification File - Check List:** Every motor carrier must have a qualification file for each regularly employed driver. The file must include:

- Driver's Application for employment
- Inquiry to a previous employers – 3 years
- Inquiry to state agencies – 3 years
- Annual review of driving record – every 12 months  
Results of this review shall be recorded in the Driver's Qualification File.
- Annual driver's certification of violations – every 12 months
- Driver's road test certificate or equivalent (copy of drivers license)
- Medical examination (Medical Examiner's Certificate)
- Inquiry of positive alcohol/controlled substance results
- Previous 7 days on-duty status record for 1st time drivers or intermittent drivers

**Multiple-employer drivers:** If a motor carrier employs a person on any basis, the motor carrier must have on file the driver's name, social security number, identification number, issuing type of his/her motor vehicle operator's license, medical certificate that includes the driver's name and signature, certification of the driver's full qualification, and expiration date of the driver's medical certificate, road test and certificate, and controlled substance test results, even if that driver's primary employment is with another carrier.

**Drivers furnished by other motor carriers:** A motor carrier using a driver regularly employed by another motor carrier must have on file a signed written certificate that includes the driver's name and signature, certification of the driver's full qualifications, and expiration date of the driver's medical examiner's certificate.

### **Serious Enforcement Violations of Part 391:**

Regulation #	Description
391.11(b)(4)	Using a physically unqualified driver
391.15(a)	Using a disqualified driver

\*The above violations are not all inclusive to enforcement action.

### **Carrier Notes:**



## ***Part 395: Hours-of-Service***

**Applicability:** This section applies to all motor carriers and drivers except those listed in Part 395(1) paragraphs (b) to (n).

Motor carriers are responsible to ensure that drivers complete record of duty status when applicable, which applies to drivers of commercial motor vehicles with GVWR, registered weight or actual weight in excess of 10,000 lbs.

**Intrastate:** (movement of persons or property from one point in Wisconsin to another point in Wisconsin)

- Shall not drive more than 12 hours after 8 consecutive hours off
- Shall not drive after being on duty 16 hours after 8 consecutive hours off
- Shall not drive after being on duty more than 70 hours in 7 days
- Shall not drive after being on duty more than 80 hours in 8 days
- **150 air mile exception-** log book requirement does not apply to a driver of a vehicle within 150 air mile radius if driver returns to work report location within 12 hours
  - Record of duty for each 24 hour period (retained by motor carrier for 6 months)
  - At least 8 hours off duty separate each 12 hours on duty
  - Driver does not exceed 12 hours maximum driving time following 8 consecutive hours off
  - Company retains records for 6 month period

**Interstate:** (movement of persons or property from one jurisdiction to another jurisdiction, i.e. state to state or state to province)

Regulations that apply to **property carriers and drivers.**

- Shall not drive more than 11 hours after 10 hours off-duty
- Shall not drive beyond the 14<sup>th</sup> hour after coming on-duty, following 10 hours off duty
- Shall not drive after being on-duty 60/70 hours in 7/8 consecutive days. A driver may restart a 7/8 consecutive day period after taking 34 or more consecutive hours off-duty

The 14-hour duty period may not be extended with off-duty time for meals and fuel stops, etc. Only the use of a sleeper berth can extend the 14-hour on-duty period, provided the sleeper berth periods are at least 2 hours in duration and split in a minimum of two periods.

Regulations that apply to Passenger carriers and drivers will continue operating under the “OLD” rules while fatigue issues specific to the passenger carrier are assessed.

Regulations that apply to **passenger carriers and drivers.**

- Shall not drive more than 10 hours after 8 hours off-duty
- Shall not drive after 15 hours following 8 hours off duty
- Shall not drive after being on-duty 60/70 hours in 7/8 consecutive days.

(Existing rules- drivers may drive 10 hours and be on-duty 15 hours, following 8 hours off-duty and may not drive after 60/70 hours on-duty in 7/8 consecutive days.)

## **Hours of Service Definitions:**

**Driving Time:** The time a driver spends at the driving controls of a motor vehicle in operation.

**On Duty Time:** On duty time begins when the driver starts work for the day or when he/she is required to be in readiness to work. It ends when the driver is relieved of all work responsibilities. Resting or napping in the co-driver seat must be logged as “on duty, not driving”. All compensated work time for any non-motor carrier entity is included as on duty time.

Examples of on duty time: Waiting to be dispatched; inspecting or servicing equipment; loading/unloading the vehicle; supervising loading/unloading the vehicle; in the vehicle but not driving (excluding sleeper berth time); fueling vehicle; working a second job; etc.

**Off Duty Time:** Three conditions must be met for a driver to be considered off duty:

1. The driver must be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying.
2. The duration of the driver’s relief from duty must be for a specific period of time and of sufficient duration to ensure that the driver can obtain rest.
3. During the off duty period, the driver must be at liberty to pursue activities of his/her own choosing, and be free to leave the premises on which the vehicle is situated.

Examples of off duty time: Driver on vacation; time driver spends driving to and from work; at a meal stop (if the driver has written authorization from the carrier in order to record that time as off duty; the written authorization is not required to be carried by the driver).

**Sleeper Berth Time:** Time actually spent in the sleeper berth of a vehicle.

**Information Required on Record of Duty Status:** (Compliance Review Investigators commonly find missing information in this area when conducting reviews):

- ✓ Date
- ✓ Total miles driving today
- ✓ Truck or tractor and trailer number
- ✓ Name of Carrier
- ✓ Driver’s signature/certification
- ✓ 24-hour period starting time (e.g. midnight, 9:00 a.m. noon, 3:00 p.m.)
- ✓ Main office address
- ✓ Remarks
- ✓ Name of co-driver
- ✓ Total hours (far right edge of grid)
- ✓ Shipping document number(s), or name of shipper and commodity

**\*Reminder: ALL entries must be current and must be made by driver only.**

**100 Air-Mile Radius Exemption:** A driver is exempt from maintaining the driver’s daily log requirements if all of the following is true:

- The driver operates within a 100 mile air-radius of the normal work reporting location
- The driver returns to the work reporting location and is released from work within 12 consecutive hours

- A property carrying driver has at least 10 consecutive hours off duty separating each 12 hours on duty and does not exceed 11 hours maximum driving time following 10 consecutive hours off duty
- A passenger carrying driver has at least 8 consecutive hours off duty separating each 12 hours on duty and does not exceed 10 hours maximum driving time following 8 consecutive hours off duty
- The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records that show the total number of hours the driver is on duty each day. The time the driver reports to duty and ends his duty each day and the total time for the preceding seven days for first time or intermittent drivers

All drivers shall prepare a record of duty status in their own handwriting for each 24-hour period, unless operating under the 100 air miles interstate or 150 miles intrastate exemptions.

**Retention of Record of Duty Status and Supporting Documents:** The driver must submit the original log sheet to the employing carrier within 13 days after completion. When a motor carrier uses a driver initially or intermittently, that carrier must obtain from the driver a signed statement giving the total time on duty during the immediate preceding 7 days and the time at which the driver was last relieved of duty.

Records of duty status must be maintained for a minimum of six months at the carrier's principal place of business. Supporting documents must also be maintained for six months.

Supporting documents include, but not limited to:

- Shipping papers and delivery receipts
- Toll receipts
- Fuel receipts/Monthly Fuel Data Reports
- Trip packet (expenses)
- Weight receipts
- Payroll records
- Phone records

**Automatic On-Board Recording Devices:** Alternatively, motor carriers may require a driver to use an automatic on-board recording device to record duty status. The driver must still have in their possession a record of duty status in automated or written form, for the previous seven consecutive days. The driver must sign all hard copies of the driver's record of duty status.

#### **Serious Enforcement Violations of Part 395:**

Regulation #	Description
395.8(e)	False reports of record of duty status

\*The above violations are not all inclusive to enforcement action.

**Carrier Notes:**

## ***Part 396: Vehicle Inspection, Repair, and Maintenance***

**General Requirements:** Every carrier shall systematically inspect, repair, and maintain all commercial motor vehicles (10,001 pounds or more) under its control.

**\*It is the carrier's responsibility to inspect and maintain vehicles for safe operation and not to allow drivers to operate vehicles likely to cause accidents or breakdowns.**

**Record Keeping Requirements:** Motor carriers must maintain the following information for every vehicle (to include trailers) they have controlled for 30 days:

- Identifying information, including company number, make, serial number, year, and tire size
- A schedule of inspections to be performed, including type and due date
- Inspection, repair, and maintenance records
- Records of tests conducted on buses with push-out windows, emergency doors, and marking lights

**Retention of Records:** Maintenance records must be retained for one year. If the vehicle leaves the carrier's control, the record must be maintained for six months thereafter.

**Roadside Inspection Reports:** Any driver who receives a roadside inspection report must deliver it to the carrier.

An official of the motor carrier is to examine the roadside inspection report and ensure that any violations or defect noted on the report are corrected. Within 15 days after the inspection, the carrier must sign the completed roadside inspection report to certify that all violations have been corrected, and then return it to the indicated address. A copy must be retained for 12 months from the date of inspection.

**Out of Service Vehicles:** No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked **"Out of Service"** until all repairs required by the "out of service notice" have been satisfactorily completed.

**Pre-trip Inspection:** Before driving a motor vehicle, the driver shall:

- Be satisfied that the vehicle is in safe operating condition
- Review the last vehicle inspection report
  - ❖ If defects were noted, sign the report to acknowledge that the driver has reviewed it and to certify that the required repairs have been performed.

**Post-trip Inspection Report:** Every carrier must require drivers to prepare a daily written post-trip inspection report at the end of each driving day. Every driver is responsible for preparing such a report for each vehicle driven. Inspection reports are to be completed in its entirety and maintained for 90 days.

The report must cover at least all parts and accessories under 396.11.

They include:

- Service brakes (including trailer brakes connections)
- Parking (hand) brake
- Steering mechanism

- Lighting devices and reflectors
- Tires
- Horn
- Windshield wipers
- Rearview mirror
- Coupling devices
- Wheels and rims
- Emergency equipment

**Corrective Measures:** The report must list any condition that the driver either found or had reported to him that would affect safety of operation or cause a breakdown. If no defect or defects are reported or found, the report should state this. The driver must sign the report and turn it in to the carrier. Before dispatching the vehicle again, a carrier shall ensure that a certification of repairs has been made as to any defects or deficiencies, that they have corrected, or state those deficiencies that do not require immediate correction. Carriers must keep the original post inspection report and the certification of repairs for at least three months from the date of preparation.

**Annual (periodic) Inspections:** Every commercial vehicle, including each segment of a combination vehicle, requires a periodic inspection that must be performed every 12 months. At a minimum, inspections must include all items enumerated in the Minimum Periodic Inspection Standards. Carriers may perform required annual inspections themselves. The motor carrier must retain the original or a copy of the periodic inspection report for 14 months from the date of the report.

Documentation (report, sticker, or decal) of the most recent periodic inspection must be kept on the vehicle.

The motor carrier may meet periodic inspection requirements through:

- State or other jurisdiction's roadside inspection program
- Self-inspection by qualified employee or;
- Third party inspection by qualified individual

**Inspector Qualification:** Motor carriers must ensure that persons performing annual inspections are qualified. Inspectors must:

- Understand the inspection standards of Part 393 Appendix G
- Be able to identify defective components
- Have knowledge and proficiency in methods, procedures, and tools

Motor carriers must retain evidence of an inspector's qualification until one year after the inspector ceases to perform inspections for the carrier.

The motor carrier is responsible for ensuring that all inspections, maintenance, repairs and service to brakes of commercial motor vehicles comply with these regulations. The carrier must ensure that the employees responsible for brake inspection, maintenance, and service or repair meet brake inspector qualifications.

**Qualifications for Brake Inspectors:** In order to reduce crashes and out-of-service violations due to improper brake adjustments, state compliance investigators will evaluate the carrier's brake inspector's qualifications. FMCSA requires motor carriers to ensure that all inspections, maintenance, service and repairs be performed by qualified brake inspectors. Enforcement may be taken against a carrier who does not ensure its brake inspectors are qualified.

**Serious Enforcement Violations of Part 396:**

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Regulation #	Description
396.9(c)(2)	Requiring or permitting the operation of a motor vehicle declared "Out-of-Service" before repairs were made
396.11(c)	Failing to correct "Out-of-Service" defects listed by driver on a driver vehicle inspection report

\*The above violations are not all inclusive to enforcement action.

**Carrier Notes:**



## Part 397: Transportation of Hazardous Materials

**Hazardous Material Carriers:** Motor Carriers transporting a hazardous material (interstate or intrastate), must comply with the Federal Hazardous Materials Regulations, 49 CFR 100-180. These regulations include registration, training, shipping papers, labels, placards and packages. In addition, there are also requirements in the Federal Motor Carrier Safety Regulations, relative to insurance requirements, operational restrictions, commercial drivers license endorsements, routing, parking, and attendance requirements for hazardous materials.

**Rules Apply to Carriers:** The rules in Part 397 apply to motor carriers engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded and to:

1. Each employee of the motor carrier who performs supervisory duties related to the transportation of hazardous materials; and
2. Each person who operates or who is in charge of a motor vehicle containing hazardous materials.

### **Definitions:**

**Hazardous Materials:** A substance or material, including a hazardous substance, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, or property when transported in commerce, and which has been so designated.

**Hazardous Waste:** Waste materials or mixtures of waste, which require special handling and disposal because of their potential to damage health and the environment.

**Hazardous Substance:** A material listed in Appendix A to 172.101 in 49 CFR and the quantity in one package equals or exceeds the reportable quantity (RQ). Material may be in solution or mixture. This definition *does not* apply to petroleum (lubricants or fuel) products.

**Materials of Trade (MOT):** Certain hazardous materials are transported in small quantities as part of a business and are subject to less regulation because of their lesser hazards. Materials of Trade are hazardous materials that are carried on a motor vehicle for at least one of the following purposes:

- To protect the health and safety of the motor vehicle operator or passengers (examples include: insect repellent, self-contained breathing apparatus, and fire extinguishers);
- To support the operation or maintenance of a motor vehicle or auxiliary equipment (examples include: engine starting fluid, spare battery, and gasoline); or
- When carried by a private motor carrier to directly support a principle business that is not transportation (examples include: lawn care, pest control, plumbing, welding, painting, door-to-door sales).

The rules that apply to Materials of Trade are found in 49 Code of Federal Regulations (CFR) 173.6.

**Carrier requirements in the transportation of hazardous material:** include but are not limited to:

- Be registered with the Hazardous Materials Registration Program
- Be familiar with the hazmat regulations and responsibilities in hazmat accidents/incidents
- Required to provide training and testing to all drivers who transport hazardous materials
- Keeping a record of training on each employee, and 90 days after leaving employment

The regulations required that hazardous materials employees be trained and tested at least once every two or three years, depending on the material they are hauling.

**Cargo Tanks:** If the motor carrier is a cargo tank carrier, the cargo tanks are to be properly equipped, marked, maintained, reconditioned, repaired, retested, and placarded. Rules that apply to cargo tank can be found in 49 Code of Federal Regulations (CFR) Part 171, 173, 177, 178 and 180.

**Hazmat Publications:** Videos, training materials, and other safety related information is available from Research and Special Programs Administration (RSPA). These materials may be obtained at site: [www.rspa.dot.gov](http://www.rspa.dot.gov).

Carrier Notes:

# Forms

Available on the Federal Motor Carrier Safety Administration website ([www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)):

## **Part 382 Alcohol and Drug Testing Requirements**

- Alcohol Testing Form

## **Part 387 Minimum Levels of Financial Responsibility for Motor Carriers**

- Motor Carrier Public Liability Surety Bond

## **Part 390 Federal Motor Carrier Safety Regulations: General**

- Motor Carrier Identification Report
- Accident Register

## **Part 391 Qualifications of Drivers**

- Medical Examination Report
- Medical Examiner's Certificate
- Annual Review of Driving Record
- Application for Employment
- Certification of Driver's Road Test
- Driver's Certification of Violations
- Driver Qualification File Checklist
- Driver's Road Test Examination
- Inquiry to State Agency for Driver's Record
- Multiple-Employer Drivers
- Request for Information from Previous Employer

Going to the following site can access a short cut directly to listed form samples:  
<http://www.fmcsa.dot.gov/factsfigs/eta/120xdt/toc120.htm>

Select the area of inquiry from the table of contents and move to the bottom of the page for available form sample links.

## **Part 395 Hours of Service of Drivers**

- Hours-of-Service Record for First Time or Intermittent Drivers
- Driver's Daily Log
- Summary of Hours Worked and Hours Available
- Letter
- Driver's Time Record

## **Part 396 Inspections, Repair, and Maintenance**

- Inspection Items
- Differences in the Levels of Inspection
- Annual Vehicle Inspection Report
- Driver's Vehicle Inspection Report
- Vehicle Service Status Report
- North American Standard Inspection Procedure
- Inspection, Repair & Maintenance Record
- Inspector Qualifications
- Brake Inspector Qualifications
- Bus Emergency Exits Inspection
- On Guard

**Transportation of Hazardous Materials**

- **Hazardous Materials Incident Report**
- **Hazardous Materials Registration Statement Page #1**
- **Hazardous Materials Registration Statement Page #2**

**Motor Carrier Financial and Operation Statistics**

- **Worksheet for Calculating Carrier Classification (Motor Carriers of Property) Page #1**
- **Worksheet for Calculating Carrier Classification (Motor Carriers of Property) Page #2**
- **Worksheet for Calculating Carrier Classification (Motor Carriers of Passengers) Page #1**
- **Worksheet for Calculating Carrier Classification (Motor Carriers of Passengers) Page #2**
- **Motor Carrier Annual Report Form M Instructions**
- **Quarterly and Annual Report Form Motor Carriers of Passengers**
- **Motor Carriers of Property and Household Goods 2001 Annual Report**
- **Motor Carriers of Property and Household Goods 2002 Quarterly Report**

## How do we Know Compliance Review Works?

*We let the numbers speak for themselves...In partnership with the FMCSA and in combination with other MCSP Programs, we have increased quality roadside inspections, become a nationwide leader in New Entrant audits, and fielded a highly trained statewide Sworn and Civilian investigative staff.....resulting in a three year consecutive reduction in Commercial Motor Vehicle Crashes! And we are not done yet!*

